

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/(954) 797-1101
Prepared by: Bradley Swing, AICP, Planner II

SUBJECT: Quasi Judicial Hearing: Variance, V 1-2-04 James and Michelle Shaw, 4050 SW 56 Avenue, Generally located 2200 feet north of Orange Drive on SW 56 Avenue

AFFECTED DISTRICT: District 1

TITLE OF AGENDA ITEM: V 1-2-04 James and Michelle Shaw, 4050 SW 56 Avenue

REPORT IN BRIEF: The applicant has requested a variance from: §12-81A of the Land Development Code which requires a side yard setback of 10 feet and rear yard setback of 15 feet in the R-5, Low Medium Density Dwelling District; to: reduce the minimum side yard setback to 5.45 feet along the north property line and to reduce the rear yard setback to 9.25 feet for an existing 14' x 16' shed.

The applicant rebuilt a utility shed on the property on an existing concrete pad but without first obtaining a permit. The applicant has obtained architectural and engineering drawings to document that the existing shed meets the requirements of the Florida Building Code. A survey and elevations are attached to the staff report. A building permit must be issued if the variance request is approved.

The original shed was built within the required minimum side and rear yard setbacks. This variance is requested to reduce the required 15 foot rear setback and 10 foot side setback to legally permit the existing utility shed to remain 5.45 feet from the north property line and 9.25 feet from the east property line, as built.

The subject site is located on a 145 x 80 foot lot at 4050 SW 56 Avenue, within the R-5, Low Medium Density Dwelling District. In the R-5 District, accessory structures over 150 square feet may not be located within the minimum side and rear yard setbacks. The property currently has a utility shed built within the rear and side yard setback. This variance request is to allow the existing utility shed to remain on the concrete pad located within the building setbacks.

The rear yard of the property is located adjacent to the rear yards of three adjacent properties. Single family residences are located to the east (5551 SW 41 Street), north (5560 SW 40 Street) and south (4090 SW 56 Avenue) of the site. The existing utility shed does not directly abut any other residential structures. The applicant has received letters of no objection to the location of the existing utility shed from the adjacent property owners.

PREVIOUS ACTIONS: None

CONCURRENCES: At the March 24, 2004 Planning and Zoning Board meeting, Ms. Lee made a motion, seconded by Mr. Stevens, to approve as long as the structure was used only for a storage shed. Motion carried 4-0 with Mr. McLaughlin absent.

FISCAL IMPACT: N/A

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Planning Report, Justification Letter, Letter from Adjacent Property Owners, Survey, Future Land Use Plan Map, Zoning and Aerial Map

TOWN OF DAVIE
Development Services Department
Planning and Zoning Division
Staff Report and Recommendation



Applicant Information

Owner/Petitioner:

Name: James and Michelle Shaw
Address: 4050 SW 56 Avenue
City: Davie, FL 33314
Phone: (954) 587-7159

Background Information

Date of Notification: March 17, 2004 **Number of Notifications:** 219

Application History: No deferrals have been requested.

Planning and Zoning Board Recommendation: At the March 24, 2004 Planning and Zoning Board meeting, Ms. Lee made a motion, seconded by Mr. Stevens, to approve as long as the structure was used only for a storage shed. Motion carried 4-0 with Mr. McLaughlin absent.

Application Request: Variance **FROM:** §12-81A of the Land Development Code which requires the following minimum setbacks: 10' side yards and 15' rear yards in the R-5, Low Medium Density Dwelling District; **TO:** Reduce the minimum side setback to 5.45' along the north property line and the minimum rear setback to 9.25' for an existing 14' x 16' shed.

Address/Location: 4050 SW 56 Avenue, Generally located 2200 feet north of Orange Drive on SW 56 Avenue.

Future Land Use Plan Map: Regional Activity Center

Zoning: R-5, Low Medium Density Dwelling District

Existing/Proposed Use: Single family home

Parcel Size: 11,669 square feet (0.27 acres)

Surrounding Uses:
North: Single family dwellings
South: Single family dwellings
East: Single family dwellings
West: Single family dwellings

Surrounding Land
Use Plan Map Designations:
Regional Activity Center
Regional Activity Center
Regional Activity Center
Regional Activity Center

Surrounding Zoning:

North: R-5, Low Medium Density Dwelling District
South: R-5, Low Medium Density Dwelling District
East: R-5, Low Medium Density Dwelling District
West: R-5, Low Medium Density Dwelling District

Zoning History

Previous Requests on same property: None

Applicable Codes and Ordinances

§12-309(B)(1) Review for variances.

§12-81A of the Land Development Code which requires 10' side yards and 15' rear yards in the R-5, Low Medium Density Dwelling District.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 8. This Planning Area is the heart of Davie and is the most diverse, characterized by older, small-scale commercial development, older single-family residential neighborhoods, and newer, large-scale multi-family residential developments that serve the rapidly growing South Florida Education Center (SFEC). It is bounded on the north by Nova Drive, south by Orange Drive, east by Florida's Turnpike, and west by University Drive. The planning area encompasses the downtown Davie Business District, where western theme architecture is required, the Davie Town Hall and Rodeo Arena, two large mobile home communities, and industrial land.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 98.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-3:* Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

Application Details and Staff Analysis

The applicant has requested a variance from: §12-81A of the Land Development Code which requires a side yard setback of 10 feet and rear yard setback of 15 feet in the R-5, Low Medium Density Dwelling District; to: reduce the minimum side yard setback to 5.45 feet along the north property line and to reduce the rear yard setback to 9.25 feet for an existing 14' x 16' shed.

The applicant rebuilt a utility shed on the property on an existing concrete pad but without first obtaining a permit. The applicant has obtained architectural and engineering drawings to document that the existing shed meets the requirements of the South Florida Building Code. A survey and elevations are attached to the staff report.

The original shed was built within the required minimum side and rear yard setbacks. This variance is requested to reduce the required 15 foot rear setback and 10 foot side setback to legally permit the existing utility shed to remain 5.45 feet from the north property line and 9.25 feet from the east property line, as built.

The subject site is located on a 145 x 80 foot lot at 4050 SW 56 Avenue, within the R-5, Low Medium Density Dwelling District. In the R-5 District, accessory structures over 150 square feet may not be located within the minimum side and rear yard setbacks. The property currently has a utility shed built within the rear and side yard setback. This variance request is to allow the existing utility shed to remain on the concrete pad located within the building setbacks.

The rear yard of the property is located adjacent to the rear yards of three adjacent properties. Single family residences are located to the east (5551 SW 41 Street), north (5560 SW 40 Street) and south (4090 SW 56 Avenue) of the site. The existing utility shed does not directly abut any other residential structures. The applicant has received letters of no objection to the location of the existing utility shed from the adjacent property owners.

Findings of Fact

Variances:

Section 12-309(B) (1):

The following findings of facts apply to the variance request:

- (a) There are no special circumstances or conditions applying to the land or building for which the variance is sought;

~~The applicant states that prior to purchasing their home a utility shed was located on a concrete pad in the northeast corner of the property. The property owner rebuilt the shed on the existing concrete pad without first obtaining a building permit.~~

which circumstances or conditions are not peculiar to such land or building and do not apply generally to land or buildings in the same district;

~~This condition, the rebuilding of a utility shed on an existing concrete slab within the required setbacks, is peculiar to this site because this property once had a utility shed built on a concrete pad at this location. While the original shed was built on the property within the required minimum side and rear yard setbacks, the applicant failed to obtain the necessary building permit prior to rebuilding the shed.~~

and that said circumstances or conditions are not such that the strict application of the provisions of this chapter would not deprive the application of the reasonable use of such land or building for which the variances are sought;

~~Strict application of this chapter would require the applicant to remove the shed from the existing concrete pad and relocate the shed.~~

and that alleged hardship is self-created by any person having an interest in the property.

The applicant contends that he felt it was appropriate to rebuild the shed on the existing concrete pad, therefore it is not self-created; however, had the applicant obtained the required building permit prior to rebuilding the shed he would have found that the existing shed was built within the required minimum setbacks. This variance request is created by the desire to permit the existing utility shed to remain within the required 15 foot rear yard and 10 foot side yard setback.

- (b) The granting of the variance is not necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

Staff cannot state that granting this variance is necessary for reasonable use of the land; however the request is the minimum needed for the applicant to maintain the existing utility shed on the existing concrete slab.

- (c) Granting of the requested variances will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The intent of the Land Development Code is to allow an interpretation to be made where there is a just balance between the rights of the landowner and all others who will be affected by that person's proposal. Allowing the existing utility shed to encroach into the required side and rear setbacks will not be detrimental to the neighborhood as the rear yard of the property does not abut any other residential structures. The applicant has obtained approval of the variance request from the neighbors to the north, south and east of the subject site (see attached letter). Therefore, granting this variance request will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

Planning and Zoning Board Recommendation

At the March 24, 2004 Planning and Zoning Board meeting, Ms. Lee made a motion, seconded by Mr. Stevens, to approve as long as the structure was used only for a storage shed. Motion carried 4-0 with Mr. McLaughlin absent.

Exhibits

- | | |
|--------------------------|-----------------------------|
| 1. Justification Letter | 3. Future Land Use Plan Map |
| 2. Survey and Elevations | 4. Zoning and Aerial Map |

Prepared by: _____

Reviewed by: _____

January 16, 2004

Mr. Christopher Gratz
c/o Town of Davie
Planning & Zoning Division
6591 Orange Drive
Davie, Florida 33314

Dear Mr. Gratz:

My name is James Shaw and I am requesting a variance for the utility shed I built at my home located at 4050 SW 56th Avenue, Davie, Florida 33314.

I have been a longtime resident of Davie and my wife has lived in Davie since moving with her family from Ohio in 1974 and we enjoy the country setting. We purchased the house at 4050 SW 56th Avenue in Davie on September 11, 2000. When we purchased this home, there were a number of improvements that needed to be made that being first time home buyers we did not realize until the papers were signed. None the less, we have tried to make improvements to the house and the property.

Upon moving in and meeting a few of our neighbors, we were told that the utility shed that was in the northeast corner of the property had at one point blown off the concrete pad and was in the yard located at the corner of 54th Avenue and 41st Street. Upon learning this, we took a closer look at the existing metal shed and noticed it wasn't properly secured to the concrete slab and had a lot of leaks. Living in South Florida we always have the threat of high winds and hurricanes, therefore, we were concerned for the safety of our neighbors as well as our personal items that would be stored in the shed. Therefore, since I have been in the construction industry all of my life and would be able to get a lot of the materials from jobsites that I work at and from other trades that I deal with, we decided to build a more stable and secure utility shed.

Other improvements that we have made to the property are: adding 18 yards of top soil, laying 7 pallets of sod, replacing the existing fence and gate on the north side of the front of the house, repaired the privacy fence located on the south side of the property, added a privacy fence along the east end of the property to match the existing privacy fence on the north and south sides, pressure washed and painted the exterior of the house, painted the utility shed to match the house, installed hurricane shutters, replaced the front and side doors and poured a slab extending the length of the house in the rear, added plants to surround and hide the garbage cans and A/C unit and planted a line of xiora at the northeast property line in the front of the house and replaced the planter in the front of the house. We have also made many improvements to the interior of the house. A few of our neighbors have commented on how good the house looks.

When we began to build the utility shed, we thought that the right way to do this was to use the existing concrete pad and extend it south into the property so as not to encroach into the existing setbacks. Because we were using the existing concrete pad, we did not realize that we were required to get a permit. We apologize for not going to the Town of Davie to find out what the proper procedures were before building our utility shed. Upon receiving notice from the Town of Davie, we realize that this was not the correct way and that we have created this hardship for ourselves. .

We have asked the neighbors on all sides of our property if the shed that we have built has caused them any concern or if they feel that it is detrimental to the neighborhood. As you can see in the attached letter they have all signed, they have no objections to the location of the shed.

We are respectfully requesting a variance that will allow us to keep the 14' x 16' shed on the existing pad which is 5.45 feet from the north property line and 9.25 feet from the east property line so that we do not have to tear the utility shed down to move it in another four feet from the north property line and five feet from the east property line.

Sincerely,



James Shaw



Michelle Shaw

July 1, 2003

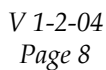
Mr. Christopher Gratz
c/o Town of Davie
Planning and Zoning Division
6591 Orange Drive
Davie, Florida 33314

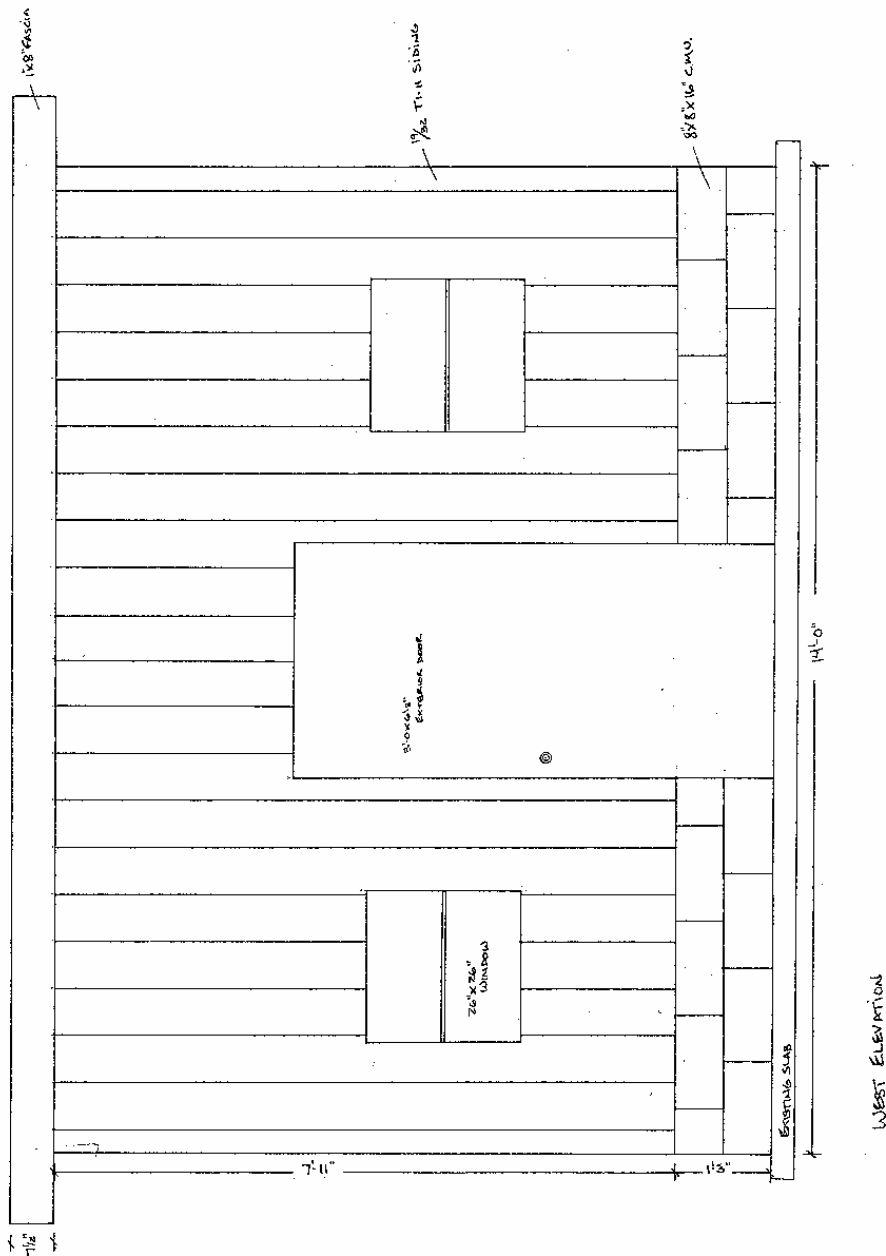
Reference: property located at
4050 S.W. 56th Avenue
Davie, Florida 33314

Mr. Gratz:

I am familiar with the property listed above and understand the owners, Mr. and Mrs. James Shaw have built a 14 x 16 storage shed in the rear of the yard. I have no objections to the location of this storage shed or the variance being granted.

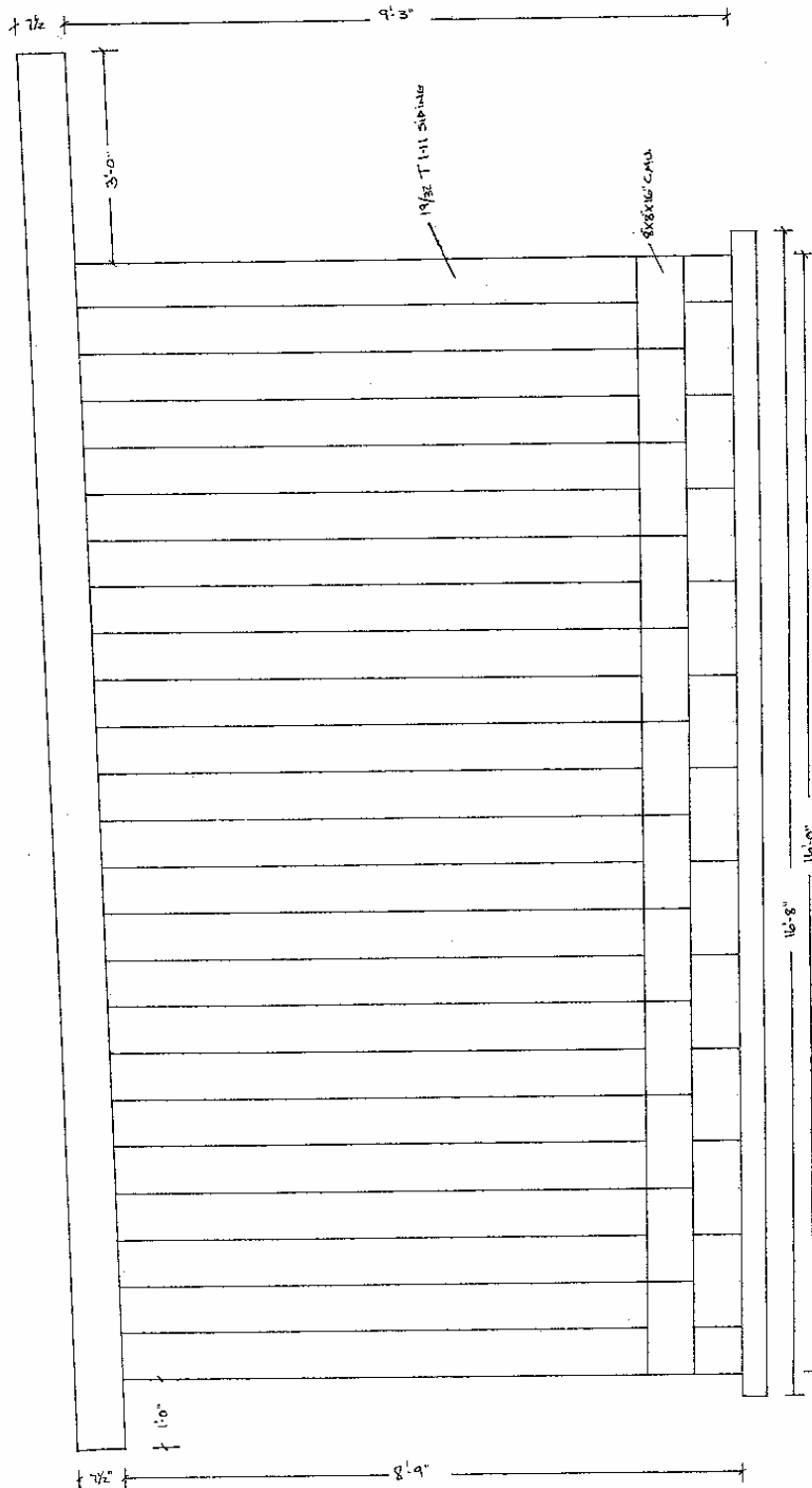
Carmichael Samaja
5560 SW 40 St Davie FL 33314
John Cameron
5551^S / W A1 ST
Don B 5590 SW 40 St
Ronald R Hunt 4050 SW 56 Ave 33314
Thank you for your assistance in this matter.





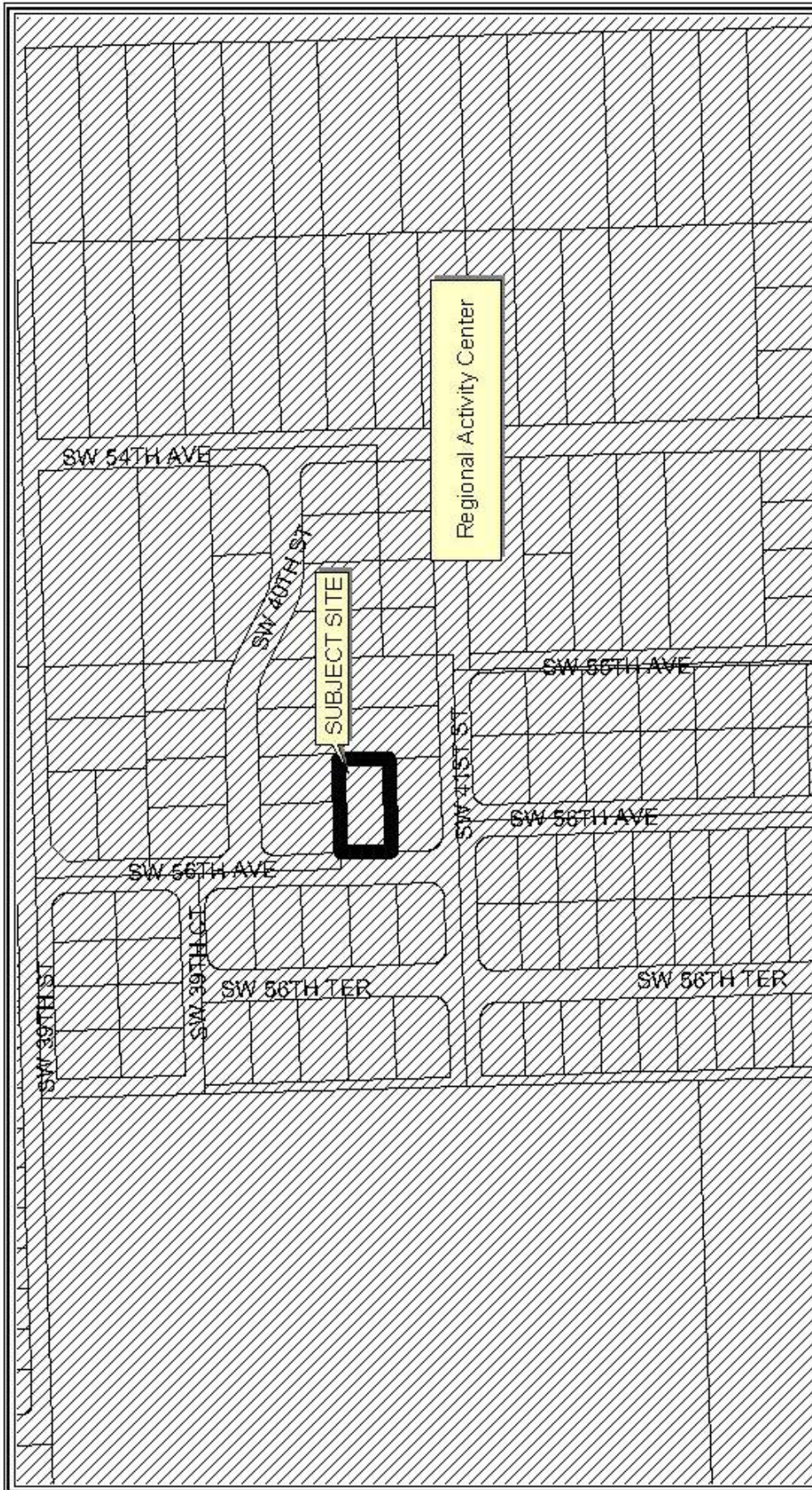
STORAGE SHED @ 4050 SW 50th AVE
DAVIE, FL

1 of 10



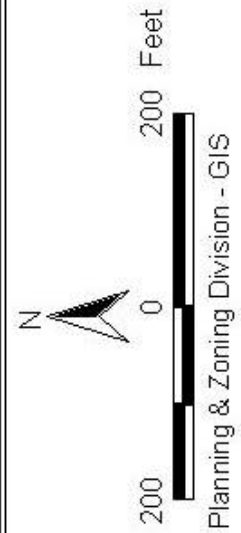
Storage Shed @ 4050 SW 56th Ave
Davie, FL

Z 0810



Variance V 1-2-04 Future Land Use Map

Prepared By: B S
Date Prepared: 3/11/04





Date Flown:
12/30/02



200 0 200 Feet

Planning & Zoning Division - GIS



Variance V 1-2-04 Zoning and Aerial Map

Prepared By: B S
Date Prepared: 3/11/04